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OFFICE OF PETITIONS

Applicant: Feng et al.
Appl. No.: 09/808,862
Filing Date: March 14, 2001
Title: METHOD AND APPARATUS FOR BACKGROUND ADJUSTMENT IN COLOR
REPRODUCTION DEVICES
Attorney Docket No.: 8371-120
Pub. No.: US 2002/0159080 A1
Pub. Date: October 31, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 17, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contain a mistake, which is a material mistake. Applicant states that the Office published the wrong name for the third inventor, as the Office listed "James Charles Dalrymple" as the third inventor when it should have listed his name as "John Charles Dalrymple". Applicants representative further states that the transmittal letter correctly list the third inventor as "John Charles Dalrymple".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The Declaration filed with the application lists the third inventor as "James Charles Dalrymple", the Office looks to Declaration for the names of the inventors. An inventor's name on the transmittal letter does not control over the name of an inventor on a signed Declaration. The inventorship has not been changed. Applicant should consider filing a new Declaration.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy